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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gerhard Vogelbacher

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05/29/2008

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EXAMINER

EWALD, MARIA VERONICA

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

05/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,736	Applicant(s) VOGELBACHER ET AL.	
	Examiner MARIA VERONICA D. EWALD	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,12 and 13 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 2, 5 – 8 and 12 – 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Ulcej (U.S. 6,663,375). Ulcej teaches an extrusion die having at least one flexible lip element (item 44 – figure 2) for discharging extruded material from a gap (item 50 – figure 2), the flow cross section of which can be modified, wherein at least one flexible lip element can be moved relative to the other lip element by means of a plurality of jointly actuatable lever elements (item 72 – figure 2; column 5, lines 5 – 20); wherein a first end of each of the plurality of lever elements is mounted in a groove in an exit region of the flexible lip element, and a second end of each of the plurality of lever elements pivotably engages with a slide in a die with respect to the die body and/or retaining element of the flexible lip element; wherein a gap height of the flow cross section between the respective oppositely situated lip elements can be modified by a linear motion of the slide in an X direction as the result of pivoting of the lever elements about an angle (figure 2; item 94 – figure 2; column 5, lines 5 – 20); wherein the flexible

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lip element has a tapered flexural region between the exit region and a die body (item 60 – figure 2), the plurality of jointly actuatable lever elements being situated between the exit region and the die body (figure 2); the slide being supported with respect to the die body and/or the retaining element (figure 2); wherein the slide can be moved back and forth in an X direction by means of an actuating element (item 144 – figure 16; column 6, lines 10 – 15); wherein the actuating element is designed as a manually actuatable drive device in particular a screw thread or spindle (item 144 – figure 16; column 6, lines 10 – 25).

With respect to claims 7 – 8, the reference further teaches that the actuating element is designed as a geared element, servomotor, electromechanical drive device, hydraulic cylinder, or the like (column 5, lines 60 – 68; column 6, lines 1 – 20); wherein the slide is mounted in a recess in the die body or the retaining element thereof (figure 2).

With respect to claims 12 – 13, Ulcej further teaches that the plurality of lever elements adjacently situated in parallel are pivotably mounted at one end in the flexible lip element (figures 2 and 4), and at the other end are mounted in the slide at a uniform distance from one another (figures 2 and 4), the slide element being supported and mounted so as to be linearly movable in the X direction with respect to the die body or the retaining element (column 6, lines 10 – 25); wherein the other flexible lip element is a second flexible lip element having a plurality of actuators running over the entire width in order to adjust the second flexible lip element between an exit region of the second flexible lip element, a tapered region of the second flexible lip element, and a

die body of the second flexible element over the width as a function of the location along the X direction, for a setting a parallel uniform gap between the flexible lip element and the second flexible lip element (item 52 – figure 2; column 4, lines 40 – 45).

Allowable Subject Matter

14. Claims 9 – 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: the closest prior art made of record, fail to teach or suggest, that the slide in the recess is supported by a plurality of needle roller bearings and also fail to teach that the slide, under pushing or pulling loads, is supported by a plurality of bearing elements. The closest prior art reference of Ulcej does not teach or suggest such bearings supporting the slide but merely bearings disposed around the actuator mechanism (the adjustment spool) which moves the slide (figure 16).

Response to Arguments

15. Applicant's arguments filed January 23, 2008 have been fully considered but they are not persuasive, with respect to Applicant's arguments regarding the reference of Ulcej. However, with respect to the reference of Druschel, the Examiner agrees that Druschel fails to teach the features of newly-amended claim 1, wherein a gap height of the flow cross section between the respective oppositely situated lip elements can be

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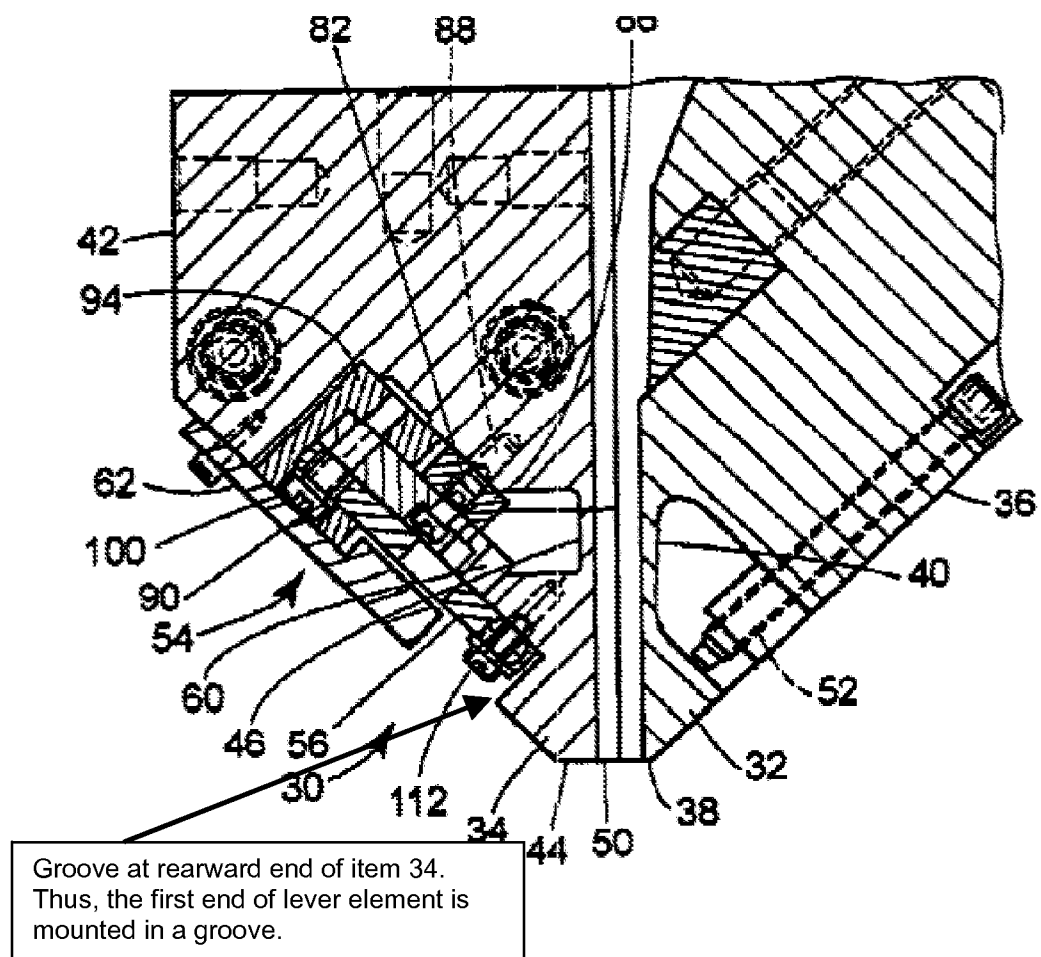
modified by a linear motion of the slide in an X direction as the result of pivoting of the lever elements about an angle. The Examiner agrees that the slide of Druschel causes the movement of the push rods in a direction perpendicular to the slide, such that the push rods move in a linear direction, but do not pivot as claimed. Thus, the rejection(s) with respect to the reference of Druschel has been withdrawn.

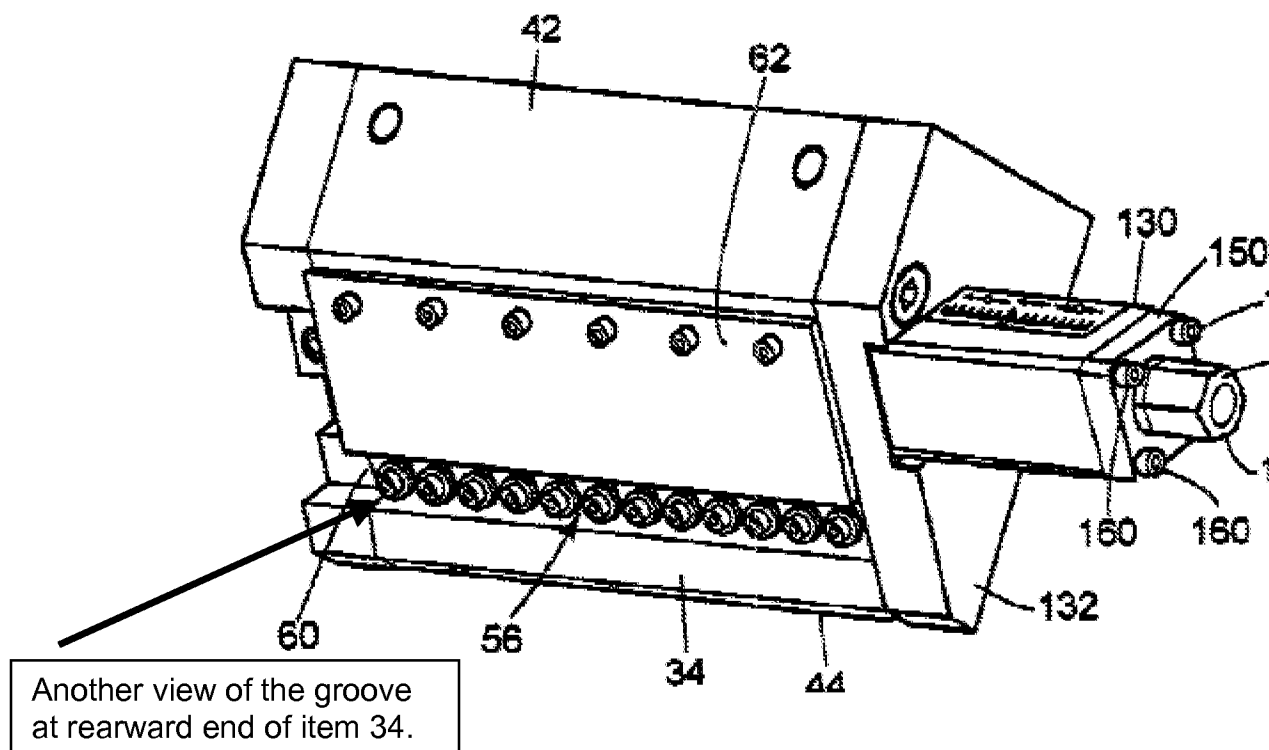
Similarly, based on the amendment of claim 1, the Examiner also withdraws the rejection(s) with respect to the references of Hajime, Dieckmann and Brown.

With respect to the reference of Ulcej, however, the Examiner disagrees with the assertion that Ulcej does not teach a groove. A groove, by definition can be a furrow, a channel or a gouge. Ulcej teaches such an element or gouge as shown in the figure

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below:





Thus, the Examiner maintains the rejection with respect to the reference of Ulcej.

Furthermore, the Examiner has indicated allowable subject matter in claims 9 – 10 for the reasons indicated previously.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIA VERONICA D. EWALD whose telephone number is (571)272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogendra N Gupta/
Supervisory Patent Examiner, Art Unit 1791

MVE